

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Miriam Lynch	Team: Squad #11	CCRB Case #: 201904103	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 04/25/2019 6:00 AM	Location of Incident: § 87(2)(b) en route to the 83rd Precinct; Brooklyn Central Booking	Precinct: 83	18 Mo. SOL 10/25/2020	EO SOL 6/11/2021	
Date/Time CV Reported Sat, 05/04/2019 8:19 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 05/13/2019 11:20 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. DT3 Allan Ward	520	949783	NARCBBN
3. DT3 Alejandro Villalona	101	947866	NARCBBN
4. DT3 Nicholas Kowatch	1299	951884	NARCBBN
5. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT William Mcneece	03813	944799	NARCBBN
2. LT Omar Birchwood	00000	945512	NARCBBN
3. DTS Brenton Cole	734	940016	083 PCT
4. DT3 Daniel Mizvesky	1465	946012	NARCBBN

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered § 87(2)(b) in Brooklyn.	
B.DT3 Allan Ward	Abuse: At § 87(2)(b) in Brooklyn, Detective Allan Ward sexually humiliated § 87(2)(b)	
C.DT3 Allan Ward	Abuse: At § 87(2)(b) in Brooklyn, Detective Allan Ward did not show the search warrant to § 87(2)(b)	
D. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer made a sexually suggestive remark to § 87(2)(b)	
E. An officer	Discourtesy: At § 87(2)(b) in Brooklyn, an officer spoke discourteously to § 87(2)(b)	
F. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer made a sexually suggestive remark to § 87(2)(b)	
G. An officer	Off. Language: At § 87(2)(b) in Brooklyn, an officer made a remark to § 87(2)(b) based upon gender.	
H. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer propositioned § 87(2)(b)	
I. An officer	Off. Language: At § 87(2)(b) in Brooklyn, an officer made a remark to § 87(2)(b) based upon gender.	

Officer(s)	Allegation	Investigator Recommendation
J. An officer	Discourtesy: At § 87(2)(b) in Brooklyn, an officer acted discourteously towards § 87(2)(b)	
K. An officer	Off. Language: At Brooklyn Central Booking, an officer made remarks based upon the gender identity of an individual,	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On May 4, 2019, § 87(2)(b) filed this complaint via phone with IAB, and IAB Log number 2019-17429 was generated. On May 13, 2019, the CCRB received this complaint under IAB Log number 19-18174.

On April 25, 2019, § 87(2)(b) was alone in her friend's residence, which her friend § 87(2)(b) allows her to use at § 87(2)(b) in Brooklyn when Det. Allan Ward, Det. Nicholas Kowatch, Det. Alejandro Villalona, Det. Nicholas Kowatch, Sgt. William McNeece, and Lt. Omar Birchwood, all of Narcotics Borough Brooklyn North, entered the residence on a search warrant (**Allegation A- Abuse of Authority-** § 87(2)(g)).

Det. Ward allegedly did not allow § 87(2)(b) to get dressed in the first 10 minutes that they were there (**Allegation B- Abuse of Authority-** § 87(2)(g)). § 87(2)(b) asked for a search warrant, and, allegedly, Det. Ward did not show her one (**Allegation C- Abuse of Authority-** § 87(2)(g)). An unidentified officer asked § 87(2)(b) if she was § 87(2)(b)'s—who was the target of the search warrant—girlfriend or “The girl he’s fucking” (**Allegation D- Abuse of Authority-** § 87(2)(g); **Allegation E- Discourtesy-** § 87(2)(g)). This unidentified officer then allegedly said, “I know your pussy is trash, just look at you,” and said that § 87(2)(b)'s “box” was “trash” (**Allegation F- Abuse of Authority-** § 87(2)(g); **Allegation G- Offensive Language-** § 87(2)(g)). Another unidentified officer allegedly said, “We’re going to take her to Peter Luger’s when she comes out of the Bookings (**Allegation H- Abuse of Authority-** § 87(2)(g)). The first unidentified officer called § 87(2)(b) a “bitch,” and a “bird-bitch” (**Allegation I- Offensive Language-** § 87(2)(g)), and allegedly tossed § 87(2)(b)'s shoes at her (**Allegation J- Discourtesy-** § 87(2)(g)).

When § 87(2)(b) was waiting to be lodged at Brooklyn Central Booking with Det. Alejandro Villalona and Det. Nicholas Kowatch, one of them allegedly said to § 87(2)(b) about another prisoner, “That wasn’t a female. That’s a transvestite. That’s a man,” or called her a “tranny” (**Allegation K- Offensive Language-** § 87(2)(g)).

§ 87(4-b), § 87(2)(g)

§ 87(2)(b) was arrested for possession of a § 87(2)(b)

(Board Review 01).

Video footage from the transport of § 87(2)(b) was provided by IAB (Board Review 02, transcribed in Board Review 03), and the investigation obtained footage from the 83rd Precinct stationhouse, where no allegations that would fall within the jurisdiction of the CCRB were made.

There was no body-worn camera footage captured in regards to this incident, as the officers were not assigned body-worn cameras at the time.

IAB investigated this incident under IAB Log 2019-16247. Relevant portions of the IAB investigation are excerpted below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Officers entered § 87(2)(b) in Brooklyn.

It is undisputed that officers entered § 87(2)(b) in Brooklyn at 6:00 a.m. on April 25, 2019. It is undisputed that Det. Ward swore out Kings County Search Warrant § 87(2)(b) on § 87(2)(b), and that this warrant was executed on April 25, 2019.

A copy of Search Warrant § 87(2)(b) indicated that officers should enter § 87(2)(b) in Brooklyn between the hours of 6:00 a.m. and 9:00 a.m., and that they may do so without knocking on the door (Board Review 04).

New York State Criminal Procedure Law 690.30 temporally circumscribes the execution of a search warrant to within 10 days of its issuance (Board Review 05).

§ 87(2)(g)

Allegation (B) Abuse of Authority: At § 87(2)(b) in Brooklyn, Detective Allan Ward sexually humiliated § 87(2)(b)

It is undisputed that when the officers entered the apartment, § 87(2)(b) was sleeping. Det. Ward was the first officer to enter the apartment. What clothing § 87(2)(b) was wearing when the officers entered, and the time they took to allow her to get dressed is in dispute.

§ 87(2)(b) alleged during her IAB phone interview that she was naked, and that the officers did not allow her to get dressed for the first 45 minutes that they were present (Board Review 06).

§ 87(2)(b) testified to the CCRB that at the time the officers entered the apartment, she was wearing a leotard around only her anogenital area, exposing every part of her body aside from the front part of her vagina. The officers handcuffed her while she was exposed in this way, and then allowed her to put on a bra, leotard, and jeans after 10 to 15 minutes. In this time, officers spoke to her about her relationship with § 87(2)(b) (Board Review 07).

Det. Ward, who was the first officer to enter the apartment, testified that § 87(2)(b)'s chest was exposed when he first arrived. He handcuffed her, guided her to the mattress on the floor by her shoulder, then threw a blanket on her. He said that she could not get dressed right away, but once the officers had finished ensuring that no one else was present, then she could get dressed. She got dressed within two minutes of the officers figuring out that no one else was in the apartment. Det. Ward explained during his interview that it was not safe for her to get dressed before this point, because the officers did not know what hazards were in the room, which was dark (Board Review 08).

Det. Villalona did not remember § 87(2)(b) being in a state of undress. He believed that she appeared fully dressed within two minutes of the officers' arrival, as the officers ascertained that there was no one else in the house at that time (Board Review 09).

Det. Kowatch remembered seeing § 87(2)(b) dressed and handcuffed within thirty seconds to one minute of his arrival into the apartment. It took officers approximately one minute to clear the apartment, that is, ensure that there were no other occupants, after which, by policy, she would be allowed to get dressed (Board Review 10).

Lt. Birchwood testified that § 87(2)(b) was wearing “lingerie” and “sleepwear,” and that she asked the officers to allow her to get dressed once they realized that no one else was in the apartment, several minutes after they arrived (Board Review 11).

Sgt. McNeece remembered that § 87(2)(b) was dressed in a white- or tan-colored shirt when he arrived. He did not recall any officer putting a blanket on her (Board Review 12).

IAB investigated the allegation that Det. Ward did not allow § 87(2)(b) to get dressed in a reasonable amount of time. They unsubstantiated the allegation § 87(2)(g)

§ 87(2)(g) (Board Review 13). NYPD Legal did not release the officers’ statements to the CCRB.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: At § 87(2)(b) in Brooklyn, Detective Allan Ward did not show the search warrant to § 87(2)(b)

Whether § 87(2)(b) requested to see a search warrant, and whether Det. Ward showed it to her are in dispute.

§ 87(2)(b) alleged in her CCRB interview that once officers entered, she requested to see a copy of the search warrant once, collectively, from all of them, and that she did not see a search warrant (Board Review 07).

Det. Ward testified that he was part of the entry bunker for the search warrant execution, and that he carried seven copies of the search warrant, which he distributed throughout the entry team. He did not remember which members of the entry team carried warrants. He did not recall § 87(2)(b) requesting a search warrant at any point, but as soon as she got dressed, he explained that he was executing a search warrant, and showed her a copy of the search warrant (Board Review 08).

Sgt. McNeece carried a copy of the warrant with him during the warrant execution, and remembered that she was shown a copy of the warrant immediately upon his arrival, though he did not remember himself doing this. He testified that Det. Ward, himself, and the lieutenant on scene would be carrying the warrant (Board Review 12).

Lt. Birchwood did not remember whether he was carrying a copy of the search warrant, but that it would have been the responsibility of the assigned investigator to do so. He did not remember if § 87(2)(b) requested a search warrant, or if any officer showed one to her. Det. Kowatch and Det. Villalona specifically remembered that they were not carrying copies of the search warrant on this date (Board Review 11).

In the IAB case file for this case is an email from Sgt. McNeece from June 13, 2019 indicating that Det. Ward told him that § 87(2)(b) refused to sign the search warrant for this case (Board Review 14). IAB unsubstantiated the allegation that § 87(2)(b) was not shown a search warrant against an unknown officer (Board Review 13).

§ 87(2)(g)

Allegation (D) Abuse of Authority: At § 87(2)(b) in Brooklyn, an officer made a sexually suggestive remark to § 87(2)(b)

Allegation (E) Discourtesy: At § 87(2)(b) in Brooklyn, an officer spoke discourteously to § 87(2)(b)

Allegation (F) Abuse of Authority: At § 87(2)(b) in Brooklyn, an officer made a sexually suggestive remark to § 87(2)(b)

Allegation (G) Offensive Language: At § 87(2)(b) in Brooklyn, an officer made a remark to § 87(2)(b) based upon gender.

Allegation (H) Abuse of Authority: At § 87(2)(b) in Brooklyn, an officer propositioned § 87(2)(b)

Allegation (I) Abuse of Authority: At § 87(2)(b) in Brooklyn, an officer made a remark to § 87(2)(b) based upon gender.

Allegation (J) Discourtesy: At § 87(2)(b) in Brooklyn, an officer acted discourteously towards § 87(2)(b)

Whether officers sexually harassed § 87(2)(b) made offensive comments to her, and spoke to her discourteously is in dispute.

During her IAB interview, § 87(2)(b) stated that a large black male officer with a beard told her that her “pussy” and “box” were “trash” while she was naked. She described this officer as “Det. Ward,” but then stated that she only said this name during her interview because his was the only name she knew. She also said that another unidentified officer told her that he would take her to Peter Luger’s steakhouse (Board Review 06).

§ 87(2)(b) alleged that before she was allowed to get dressed, one officer asked if she was § 87(2)(b)’s girlfriend, or the “girl he [was] fucking,” said that § 87(2)(b)’s “pussy” and “box” were trash, using both terms in reference to genitalia. In response, one of the other officers said that § 87(2)(b) was not “trash,” that she was “nice” and that he was going to take her to Peter Luger’s steakhouse after she was released from Brooklyn Central Booking. Later, the first officer called her a “bitch” and a “bird-bitch,” and threw her shoes at her as she was leaving the apartment to be taken into police custody (Board Review 07).

§ 87(2)(b) described the first subject officer as a 6’2” tall stocky black male with a beard. She stated that there were two such officers on scene, one who interacted mostly with her and another who stayed quiet. The only difference between these two officers was that one was wearing two gold chains, and the other was not wearing a gold chain. She differentiated the subject officer from another officer, who other officers called “Det. Ward,” as a clean-shaven black male with an athletic build. “Det. Ward” treated her respectfully, and she did not attribute these actions to him.

§ 87(2)(b) stated that the second subject officer—the one who referred to taking her to Peter Luger’s—as potentially one of two officers who were speaking back and forth. One was a male officer who other officers referred to as “Nick,” a slim white male with short hair. The other was a white male with wide cheeks. She could not remember exactly which officer made this statement, as they were speaking back and forth with each other. § 87(2)(b) did not cooperate with attempts to have her view a photo array (Board Review 15).

The investigation identified two black male officers between 6'1" and 6'2" tall with beards: Det. Ward and Lt. Birchwood. Both wore gold chains to their interviews, but both testified that no one on the 83rd Precinct Module would wear multiple gold chains (Board Reviews 08 and 11). In addition, one of the officers on scene was named Nicholas: Det. Kowatch, but he denied having any conversation with § 87(2)(b) inside of the residence (Board Review 10).

Det. Ward, Det. Kowatch, Det. Villalona, and Sgt. McNeece either denied or did not recall any officer referring to § 87(2)(b)'s genitalia, using profanity, offering to take her to Peter Luger's, or throwing her shoes at her (Board Reviews 8-12).

The only aspect of these allegations addressed by the IAB investigation was a spin-off to the CCRB for discourteous language (Board Review 13)

§ 87(2)(g)

Allegation (K) Offensive Language: At Brooklyn Central Booking, an officer made remarks based upon the gender identity of an individual.

It is undisputed that Det. Kowatch and Det. Villalona transported § 87(2)(b) to Brooklyn Central Booking. Whether they made remarks about an unidentified individual's gender identity is in dispute.

In her CCRB interview, § 87(2)(b) testified that after she was taken to Brooklyn Central Booking, one of the two officers transporting her made a remark about one of the female prisoners lodged with § 87(2)(b) at the 83rd Precinct stationhouse: "That wasn't a female. That's a transvestite. That's a man." She did not remember which of the officers allegedly made this remark (Board Review 07). In a follow-up phone statement, she said that the officer may have used the word "tranny" in reference to the other prisoner (Board Review 16).

§ 87(2)(b) did not participate with the investigation's attempts to get her to view a photo array (Board Review 15).

Det. Villalona stated that both he and Det. Kowatch lodged § 87(2)(b) in the holding cells at the 83rd Precinct stationhouse. In the latter part of their time with her, they had a good rapport with § 87(2)(b) and had amiable conversation with her. He did not recall any officer making these remarks (Board Review 09).

Det. Kowatch denied that he participated in lodging § 87(2)(b) in the cells at the 83rd Precinct stationhouse, and denied having conversation with her. He did not remember any officer making these statements. He participated in the same transports that Det. Villalona did (Board Review 10).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) (Board Review 18).
- Det. Ward has been a member of service for 9 years. 12 prior CCRB cases and 26 prior allegations have been filed against him. None has been substantiated.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation due to the arrest.
- On May 28, 2020, the Office of the New York City Comptroller confirmed that no Notice of Claim has been filed on behalf of § 87(2)(b) (Board Review 19).
- According to the Office of Court Administration, as of May 27, 2020, § 87(2)(b) does not have any convictions in New York City. The Office of Court Administration did not list any convictions for § 87(2)(b) pursuant to this case (Board Review 20).

Squad No.: 11

Investigator: Miriam Lynch SI Miriam Lynch 06/03/2020
Signature Print Title & Name Date

Squad Leader: Edwin Pena IM Edwin Pena 06/08/20
Signature Print Title & Name Date

Reviewer: _____

Signature

Print Title & Name

Date